

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 12

LAW OFFICE OF NANCY L. CAVEY, PLLC,

and

CASE NO.: 12-CA-211512

ANDREA ATKINS, an individual.

RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

Respondent, LAW OFFICE OF NANCY L. CAVEY, PLLC ("Respondent") moves for entry of summary judgment in its favor pursuant to all applicable NLRB rules and as grounds therefore states:

1. The Agency charge against Respondent contends that Respondent wrongfully terminated Andrea Atkins for engaging in concerted activity. That concerted activity according to the filed charge was discussing wages in the workplace. For the reasons that follow, Respondent will show that Ms. Atkins' expression was not "concerted activity" and therefore this charge fails of an essential element of proof.

2. The facts will show that the so-called "concerted activity" engaged in by Ms. Atkins was blurting out the amount of her pay in several "water cooler" office conversations with fellow staff. She essentially bragged about her pay. This expression on its own terms was not intended to further the goal of employees working in concert in any way whatsoever. In fact, the evidence will show that Ms. Atkins' expression caused office dissension.

3. The aforesaid expression does not and cannot constitute a concerted activity and therefore the Agency's charge is fatally deficient.

4. Respondent attaches witness statements supporting this motion. These statements both address her expression, which was not “concerted activity”, and provide background and context regarding the overall situation.

WHEREFORE, Respondent moves for entry of summary judgment in its favor regarding the claim that Ms. Atkins was wrongfully terminated.

/s/ Marcus A. Castillo
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the Respondent’s Motion for Summary Judgment has been filed using the National Labor Relations Board’s e-Filing portal this 8th day of August 2018, and service has been made via e-mail to: Andrea Atkins, 5459 Pentail Cir., Tampa, FL 33625-1934; Primary: aatkins1432@gmail.com and to: Steven Barclay as Trial Counsel for the National Labor Relations Board; Primary: Steven.Barclay@NLRB.gov

/s/ Marcus A. Castillo
MARCUS A. CASTILLO, B.C.S.